

Notice of Allowability

Application No.

10/602,693

Examiner

Traviss C. McIntosh

Applicant(s)

SOMMADOSSI ET AL.

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 8/29/05.
2. ☒ The allowed claim(s) is/are 89,130-148,151,152,154 and 156-174.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 3/9/04 & 9/6/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Sherry Knowles on November 9, 2005.

The application has been amended as follows:

In the specification:

Paragraph 1, beginning at page 1, line 4, has been deleted and replaced by the following paragraph:

This invention is in the area of pharmaceutical chemistry, and in particular, is a compound, method and composition for the treatment of flaviviruses and pestiviruses. This application is a divisional of U.S. application no. 09/863,816, filed on May 23, 2001, now US Patent No. 6,812,219, which claims priority to U.S. provisional application no. 60/207,674, filed on May 26, 2000 and U.S. provisional application no. 60/283,276, filed on April 11, 2001, the disclosures of which are incorporated herein by reference.

In the claims:

In claim 89, in the second line, the phrase "to said host" has been inserted after the word "administering" wherein the phrase reads "comprising administering to said host an anti-virally".

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In claim 89, in the 9th line after the structure of formula (XVII), the phrase “administered *in vivo* is capable of providing a compound...” has been deleted and replaced by the following phrase: “administered *in vivo* provides a compound...”.

In claim 89, in the 11th line after the structure of formula (XVII), the phrase “R⁶ is hydroxy, alkyl, azido...” has been deleted and replaced by the following phrase: “R⁶ is alkyl, azido...”.

In claim 89, in the 15th line after the structure of formula (XVII), the phrase “R⁷ and R⁸ are independently hydrogen, OR², hydroxy...” has been deleted and replaced by the following phrase: “R⁷ and R⁸ are independently OR², hydroxy...”.

In claim 131, in the 6th line after the structures of formulas (X) and (XI), the phrase “which when administered *in vivo* is capable of providing a compound...” has been deleted and replaced by the following phrase: “which when administered *in vivo* provides a compound...”.

In claim 131, in the 8th line after the structures of formulas (X) and (XI), the phrase “R⁶ is hydroxy, alkyl, azido...” has been deleted and replaced by the following phrase: “R⁶ is alkyl, azido...”.

In claim 131, in the 12th line after the structures of formulas (X) and (XI), the phrase “R⁷ is hydrogen, OR³, hydroxy...” has been deleted and replaced by the following phrase: “R⁷ is OR³, hydroxy...”.

In claim 132, in the 4th line, the phrase “R⁷ and R⁸ are independently hydrogen, OR², alkyl...” has been deleted and replaced by the following phrase: “R⁷ and R⁸ are independently OR², alkyl...”.

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Claim 136 (currently amended): The method of claim 89 wherein R^7 and R^9 are independently selected from OR^2 or hydroxy.

In claim 142, in the 5th line, the phrase " R^7 and R^8 are independently hydrogen, OR^2 , or hydroxy" has been deleted and replaced by the following phrase: " R^7 and R^8 are independently OR^2 or hydroxy".

The following is an examiner's statement of reasons for allowance: the prior art is not seen to teach or fairly suggest the use of purine nucleoside/nucleotides which are substituted at the 2' position of the sugar in the treatment of flavivirus or pestivirus infections.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

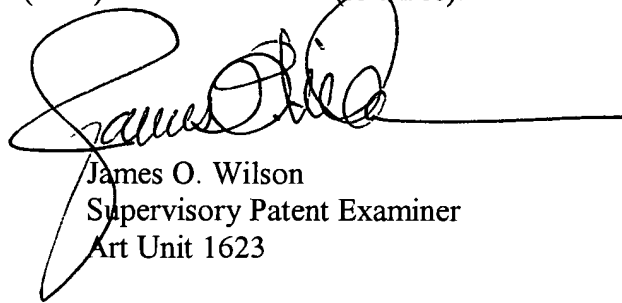
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traviss C. McIntosh whose telephone number is 571-272-0657. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Traviss C. McIntosh III
November 26, 2005



James O. Wilson
Supervisory Patent Examiner
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